

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION AT HAMMOND

M-2BB

IN RE: )  
NORFRAY SHANNON, SR. )  
 ) BANKRUPTCY NO. 04-64036  
 )  
Debtor )

**ORDER**

This Case is before the Court on the Objection Claim No. 8 of the Indiana Department of Revenue filed by the Debtor hereinafter "Objectant" on the 8th day of April, 2005. No response has been filed to the Notice and Opportunity to Object thereto within the time provided by said Notice.

The Court finds that since this is a contested matter, pursuant to Fed. R. Bk. P. 9014 (b), Service, Fed. R. Bk. P. 7004, Process; Service of Summons, Complaint, is applicable. The Court further finds in that Indiana Department of Revenue is a party to said Objection, the Objectant has not made proper service on the Indiana Attorney General as required by Fed. R. Bk. P. 7004(a), or Fed. R. Bk. P. 7004(b)(6) in that service was made on the Indiana Department of Revenue, but not on the Indiana Attorney General. <sup>1</sup> See State of Indiana v. Omega Painting, Inc. 463 N. E. 2d 287,

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<sup>1</sup> Fed. R. Bk. P. 7004(b)(6) provides as follows:

(b) **Service by First Class Mail.** Except as provided in subdivision (h), in addition to the methods of service authorized by Rule 4(e)-(j) FR Civ P, service may be made within the United States by first class mail postage prepaid as follows:

\* \* \* \*

(6) Upon a state or municipal corporation or other governmental organization thereof subject to suit, by mailing a copy of the summons and complaint to the person or office upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state, or in the absence of the designation of any such person or office by state law, then to the chief executive officer thereof.

In addition, Fed. R. Civ. P. 7004(a) states as follows:

(a) **Summons; Service; Proof of Service.** Rule 4(a), (b), (c)(1), (d)(1), (e)-(j), (1), and (m) FR Civ P applies in adversary proceedings. Personal service pursuant to Rule 4(e)-(j) FR Civ P may be made by any person at least 18 years of age who is not a party, and the summons may be delivered by the clerk

290 (Ind. App. 1984) Rehg. den. 464 N. E.2d 970 (the requirement of Ind. Trial Rule 4.6(A)(3) is mandatory. Service must be both on the State Agency involved and the Attorney General as Counsel of the State). It is therefore,

**ORDERED**, that proper service be made by the Objectant as required and a certificate of such service filed with the Court on or before August 8, 2005, or the Court may dismiss said Objection without prejudice, without further notice and hearing.

Dated: June 8, 2005

Distribution

  
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JUDGE, U. S. BANKRUPTCY COURT

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to any such person.

Fed. R. Bk. P. 4(j)(2), as made applicable by Fed. R. Bk. P. 7004(a), provides as follows:

(2) Service upon a state, municipal corporation, or other governmental organization subject to suit, shall be effected by delivering a copy of the summons and of the complaint to its chief executive officer or by serving the summons and complaint in the manner prescribed by the law of that state for the service of summons or other like process upon any such defendant.

Indiana Trial Rules 4.6(A)(3), (4), and (5), as made applicable by Fed. R. Bk. P. 7004(b)(6), state as follows:

(A) Persons to be Served. Service upon an organization may be made as follows:

\* \* \* \*

(3) In the case of a state governmental organization upon the executive officer thereof and also upon the Attorney General.

(4) In the case of a local governmental organization upon the executive thereof, and if a statute provides for an attorney to represent the local government organization, and an attorney occupies such position, then also upon such attorney.

(5) When, in subsections (3) and (4) of this subdivision, a governmental representative is named as a party in his individual name or in such name along with his official title, then also upon such representative.

See also, Indiana Trial Rule 4.8, Summons: Service of Pleadings or Summons on Attorney General; Indiana Trial Rule 4.10, Summons: Service upon Secretary of State or other Governmental Agent; Indiana Trial Rule 83, Definitions: Indiana Trial Rule 83(2), "Executive" of a Governmental Organization; Indiana Trial Rule 83(3), "Governmental Organizations"; Indiana Trial Rule 83(4), "Governmental Representative"; Indiana Trial Rule 83(5) "Organization"; and I.C. 4-6-4-1, et. seq., service on Attorney General.